

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## SENATE ENROLLED ACT No. 448

AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 3-11-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) This section applies, notwithstanding any other provision of this title, to absentee ballot applications for:

- (1) an absent uniformed services voter (as defined in 42 U.S.C. 1973ff-6(1)); **and**
- (2) **an address confidentiality program participant (as defined in IC 5-26.5-1-6).**

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (c), the person may apply for an absentee ballot at any time after the applications are made available.

(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff-(b).

(d) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.



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(e) Whenever an absent uniformed services voter **or an address confidentiality program participant (as defined in IC 5-26.5-1-6)** files an application for a primary election absentee ballot and indicates on the application that:

**(1) the voter is an absent uniformed services voter and** does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application; **or**

**(2) the voter is an address confidentiality program participant;**

the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and mail general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and mailed under this chapter.

(f) **The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:**

**(1) To a law enforcement agency, upon request.**

**(2) As directed by a court order.**

(g) This subsection applies to a county election board that owns or has access to a facsimile (FAX) machine. The county election board may transmit and receive absentee ballots by FAX machine to voters covered under the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff) under the following circumstances:

(1) If an emergency is declared by the President of the United States, the Congress of the United States, or the presidential designee under the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff).

(2) If otherwise mandated to do so under federal law.

SECTION 2. IC 3-11-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. An absentee ballot application under section 6 of this chapter must:



(1) be made on a standard form approved under 42 U.S.C. 1973ff-(b) or on the form prescribed by the commission under section 5.1 of this chapter; and

(2) show that the:

(A) absent uniformed services voter (as defined in 42 U.S.C. 1973ff-6(1)); or

(B) address confidentiality program participant (as defined in IC 5-26.5-1-6);

is a resident otherwise qualified to vote in the precinct.

SECTION 3. IC 5-26.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**ARTICLE 26.5. ADDRESS CONFIDENTIALITY PROGRAM**

**Chapter 1. Definitions**

**Sec. 1.** The definitions in this chapter apply throughout this article.

**Sec. 2.** "Address" means:

(1) a residential street address;

(2) a school address; or

(3) a work address;

of an individual as specified on an individual's application to be a program participant.

**Sec. 3.** "Domestic violence" includes conduct that is an element of an offense under IC 35-42 or a threat to commit an act described in IC 35-42 by a person against a person who:

(1) is or was a spouse of;

(2) is or was living as if a spouse of;

(3) has a child in common with;

(4) is a minor subject to the control of; or

(5) is an incapacitated individual under the guardianship or otherwise subject to the control of;

the other person regardless of whether the act or threat has been reported to a law enforcement agency or results in a criminal prosecution.

**Sec. 4.** "Incapacitated individual" has the meaning set forth in IC 12-10-7-1.

**Sec. 5.** "Minor" means a person who is less than eighteen (18) years of age.

**Sec. 6.** "Program participant" refers to an individual certified as a program participant under IC 5-26.5-2-3. A program participant must be domiciled in Indiana.

**Sec. 7.** "Protective order" means any order issued by a court



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that prohibits a person from directly or indirectly contacting, harassing, disturbing, or approaching another person. The term includes an order (as defined in IC 5-2-9-2.1) and a protective order from a foreign jurisdiction.

#### **Chapter 2. Address Confidentiality Program**

**Sec. 1.** The following individuals may apply to the office of the attorney general to have an address designated by the office of the attorney general serve as the individual's address or as the address of a minor or an incapacitated individual:

- (1) An individual who is at least eighteen (18) years of age.
- (2) A parent or guardian acting on behalf of a minor.
- (3) A guardian acting on behalf of an incapacitated individual.

**Sec. 2.** The office of the attorney general shall approve an application filed in the manner and on a form prescribed by the office of the attorney general if the application contains the following:

(1) A sworn statement by the applicant that the applicant has good reason to believe that:

- (A) the applicant, or the minor or incapacitated individual on whose behalf the application is made, is a victim of domestic violence; and
- (B) the applicant fears for:
  - (i) the applicant's safety; or
  - (ii) the safety of a minor or an incapacitated individual on whose behalf the application is made.

(2) A copy of a valid protective order issued on behalf of the applicant or the minor or incapacitated individual on whose behalf the application is made.

(3) A designation of the office of the attorney general as an agent of the applicant for the purpose of:

- (A) service of process; and
- (B) receipt of mail.

(4) The:

- (A) mailing address; and
- (B) telephone number;

where the applicant may be contacted by the office of the attorney general.

(5) The new address that the applicant requests not be disclosed because disclosure may increase the risk of domestic violence.

(6) The signature of the applicant and of any representative of an agency designated under IC 5-26.5-3-4 that assisted in

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the preparation of the application.

(7) The date the applicant signed the application.

**Sec. 3. (a)** Upon approving an application under section 2 of this chapter, the office of the attorney general shall certify the applicant as a program participant.

(b) Subject to IC 5-26.5-3-2, the name, address, telephone number, and any other identifying information relating to a program participant, as contained in a record created under this chapter, is declared confidential for purposes of IC 5-14-3-4(a)(1).

**Sec. 4.** A program participant may use an address designated by the office of the attorney general as the program participant's work address.

**Sec. 5.** A program participant who is otherwise qualified to vote may apply to vote in the same manner as an absent uniformed services voter under IC 3-11-4-6.

**Sec. 6. (a)** Certification as a program participant expires on the earlier of:

(1) two (2) years after the date on which the office of the attorney general certifies or renews the certification of the applicant as a program participant; or

(2) the date on which the protective order that is the basis for the certification is withdrawn, revoked, or otherwise invalidated.

The modification of a protective order is not an invalidation for purposes of subdivision (2).

(b) A program participant whose certification expires under subsection (a)(1) may apply to renew the certification under section 7 of this chapter.

(c) A program participant whose certification expires under subsection (a)(2) may apply to renew the certification under section 8 of this chapter. The program participant shall notify the office of the attorney general when the protective order is withdrawn, revoked, or otherwise invalidated.

**Sec. 7. (a)** This section applies to a program participant whose certification expired under section 6(a)(1) of this chapter.

(b) The office of the attorney general shall notify the program participant of the expiration date at least thirty (30) days before the expiration date.

(c) The office of the attorney general shall approve an application for renewal of certification filed in the manner and on a form prescribed by the office of the attorney general if the application contains the requirements set forth in section 2 of this



chapter. However, a program participant who applies for renewal of certification under this section does not have to provide a copy of a valid protective order except as provided in section 9 of this chapter.

**Sec. 8. (a)** This section applies to a program participant whose certification expired under section 6(a)(2) of this chapter.

**(b)** A program participant may apply to renew the certification on a form prescribed by the office of the attorney general. The office of the attorney general may approve the application if the requirements set forth in section 2 of this chapter are satisfied. The office of the attorney general may not approve the application unless a new protective order has been issued to replace the protective order on which the initial certification as a program participant was based.

**Sec. 9. If:**

- (1)** a protective order on which certification as a program participant is based is modified; or
- (2)** a new protective order is issued to replace the protective order on which certification as a program participant is based;

the program participant must provide the office of the attorney general with a copy of the modified or new protective order to continue as a program participant.

**Sec. 10. A person who knowingly or intentionally:**

- (1)** falsely attests in an application made under this chapter that disclosure of the applicant's address would endanger:
  - (A)** the applicant's safety; or
  - (B)** the safety of a minor or an incapacitated individual upon whose behalf the application is made; or
- (2)** provides false or incorrect information upon making an application under this chapter;

commits perjury. This section applies to an application for certification under section 2 of this chapter and to an application for renewal of certification under section 7 or 8 of this chapter.

### **Chapter 3. Duties of the Office of the Attorney General**

**Sec. 1.** The office of the attorney general may adopt rules to implement this article.

**Sec. 2.** The office of the attorney general may not disclose for public inspection or copying the name, address, telephone number, or any other identifying information relating to a program participant that is declared confidential under IC 5-26.5-2-3(b), as contained in a record created under this chapter, except as follows:



(1) When requested by a law enforcement agency, to the law enforcement agency.

(2) When directed by a court order, to a person identified in the order.

(3) When certification of a program participant is revoked.

**Sec. 3.** The office of the attorney general shall forward first class mail belonging to a program participant to the program participant.

**Sec. 4.** The office of the attorney general shall designate:

(1) state and local agencies; and

(2) nonprofit agencies;

that provide counseling and shelter services to victims of domestic violence to assist persons in applying to be program participants.

**Sec. 5.** Assistance and counseling provided by the office of the attorney general or its designees to applicants under this article may not be construed as legal advice.

**Sec. 6. (a)** The office of the attorney general may accept grants and donations made to the office for the purposes of this article.

**(b)** The address confidentiality fund is established as a dedicated fund to be administered by the office of the attorney general. The fund consists of money accepted by the office of the attorney general under subsection (a) and any appropriations made to the fund by the general assembly.

**(c)** Expenses of administering the fund shall be paid from money in the fund.

**(d)** The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

**(e)** Money in the fund at the end of a fiscal year does not revert to the state general fund. Money in the fund is continuously appropriated for the purposes of this article.

#### **Chapter 4. Revocation of Certification as a Program Participant**

**Sec. 1.** The office of the attorney general shall revoke the certification of a program participant who obtains a change of name under IC 34-28-2.

**Sec. 2.** The office of the attorney general may revoke a program participant's certification if the program participant changes the program participant's residential address from the address listed on the application, unless the program participant provides the office of the attorney general with written notice seven (7) days before the change of address.



**Sec. 3.** The office of the attorney general may revoke the certification of a program participant if mail forwarded by the office of the attorney general to the program participant's address is returned as undeliverable.

**Sec. 4.** The office of the attorney general shall revoke the certification of a program participant who has applied to the address confidentiality program using false information.

**Sec. 5.** Unless the program participant's certification has been renewed under IC 5-26.5-2-7 or IC 5-26.5-2-8, the office of the attorney general shall revoke the certification of a program participant if the attorney general determines that the protective order on which the certification is based has been terminated or otherwise invalidated.

**Sec. 6.** The office of the attorney general shall investigate to determine whether a program participant continues to qualify for participation in the program if a person notifies the office that the protective order on which a program participant's certification as a program participant is based has expired or has been terminated.

#### **Chapter 5. Agency Use of Designated Address**

**Sec. 1.** The program participant, and not the office of the attorney general, is responsible for requesting other persons to use the address designated by the office of the attorney general as the program participant's address.

**Sec. 2.** A program participant may request that any person, including a state or local agency, use the address designated by the office of the attorney general as the program participant's address.

**Sec. 3. (a)** Whenever a state or local agency creates a new public record, the agency shall accept the address designated by the office of the attorney general as a program participant's substitute address unless the office of the attorney general determines that the agency is required by statute or administrative rule to use an address that would otherwise be confidential under this article.

**(b)** A state or local agency that uses a confidential address under subsection (a) may use the confidential address only for the purpose set out in the statute or administrative rule identified under subsection (a).

#### **Sec. 4. If:**

- (1)** section 3 of this chapter does not apply; and
- (2)** federal law does not specifically require that the person use an address that otherwise would be confidential under this chapter;

the person that receives a request under section 2 of this chapter



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shall use the address designated by the office of the attorney general as the program participant's address.

**Sec. 5.** A person who ceases to be a program participant is responsible for notifying persons who use the address designated by the office of the attorney general as the program participant's address that the designated address is no longer the person's address.

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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